IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5865 OF 2003

Prasad V. Limaye).. Petitioner

Versus

The Secretary, Dombivli Shikshan Prasarak Mandal and others).. Respondents

Mr.Mihir Desai for the Petitioner.

Ms.S.S.Mhaispurkar with Mr.D.S.Mhaispurkar for Respondent Nos.1 and 2.

Mr.R.M.Patne, A.G.P., for Respondent Nos.4 and 5.

CORAM: H.L. GOKHALE AND SMT.NISHITA MHATRE, JJ.

DATED: 28TH SEPTEMBER 2004

P.C.:

1. Heard Mr.Desai for the Petitioner. Ms.Mhaispurkar appears for Respondent Nos.1 and 2 and Mr.Patne, A.G.P., for Respondent Nos.4 and 5. Learned Counsel for Respondent No.3 is not present.

2. Mr.Desai has shown us a letter dated 22nd December 2003 issued by the Registrar of Respondent No.3 University to Respondent No.2 Principal of the concerned College. This letter records that the University has granted approval to the Petitioner with effect from 28th July 1997 on probation since he had passed the SET examination.

3. The Petition sought an approval from Respondent No.3 by treating him as in continuous service from 1st July 1992 i.e. prayer clause (a)(i). In view of this letter of the University, this prayer is already answered in favour of the Petitioner.

4. The other two prayers are prayers (a)(ii) and (a)(iii) which seeks in increments to the Petitioner for the years 2001-2002 and 2002-2003 and that they should be released thereafter on a regular basis. Prayer (a)(iii) seeks a direction to the State Government to release the balance of the arrears of revised salary of the Petitioner for the period 1st January 1996 to February 2003. Mr.Desai submits that in view of this approval, these prayers also should be granted. No counter has been filed by the State Government though the Petition has been pending for good time. In view thereof, prima facie we are also of the view that the Petitioner is entitled to these increments and also the arrears as sought in prayer clauses (a)(ii) and (a)(iii). In the circumstances, we direct the State Government to release these increments and the arrears and clear the payments based thereon. Mr.Patne, learned A.G.P. appearing for the State, seeks sufficient time to clear these amounts. The State may clear these amounts within three months and

in any case by end of December 2004. Although we are giving this direction to the State Government on the request of Mr.Patne, we grant them a liberty that in the event there are any reason not to release these amounts, they may communicate the reasons to the Petitioner in that behalf by end of December 2004. This is only because no reply has been filed by the State Government. We make it further clear that in the event the arrears are not cleared and no reasons are communicated to the Petitioner by end of December 2004, it will be taken that the State Government has no reason not to clear the payments as per prayer clauses (a)(ii) and (a)(iii) and Petitioner will be entitled to the same with interest at the rate of six per cent thereafter. Ms.Mhaispurkar, learned Counsel for Respondent Nos.1 and 2 states that based on this order, Respondent Nos.1 and 2 will forward the pay bills to the concerned authorities by end of October 2004. The Petition disposed of.

5. Certified copy expedited.

(H.L. GOKHALE, J.)

(SMT.NISHITA MHATRE, J.)